BAR BULLETIN

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BAR BULLETIN

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THE PUBLIC SERVICE OF THE BAR.

According to fairly accurate estimates, approximately ten per cent of the members of the Bar are now serving in the armed forces of their country. Certainly as many more have forsaken the private practice of law and entered the government service, though the number cannot be estimated with any degree of accuracy. The number of practicing attorneys has been further reduced to a material extent by the tremendous curtailment in law school enrollment and the consequent shortage of new members of the Bar.

These facts place upon those who remain in active practice, the greatly increased burden of maintaining the democratic processes under the stress and strain of war, lest there be but an empty shell of government when the war is over. To that end, it is of the utmost importance that we maintain vigorously the great organizations of the Bar which have survived other wars and served the public well in times of war and peace; it is not enough that we take our part in the myriad activities of civilian defense, necessary as that is.

Too few lawyers in this state are interested in the work of the American Bar Association; more should be. But every lawyer in this state now in active practice should give his wholehearted support to the efforts of the State Bar of California and to his local bar association, and contribute so much of his time as possible.

While the war has somewhat curtailed the normal activities of these associations, it has added many others and greatly increased their fields of public service. The meeting of the Conference of the State Bar and of the Annual Meeting of the State Bar to be held in San Francisco, September 15 and 16, 1943, will afford an opportunity to all to voice their approval or disapproval of the war program of the State Bar and its plans for the future, and to lend a helping hand. Similarly, the opportunity to further the work of the Los Angeles Bar Association and of those within the county affiliated with it is ever present, not only through membership but by service on their many committees. More than ever before, these organizations need our help now. Every lawyer should make it his business to donate of his services to his associations. P. McC.

ON THE FIGHTING FRONT

Somewhere in the Pacific: Our old friend Lt. Commander Jack Hardy, U. S. N. R., writes a most interesting letter to Lou Elkins, telling of his visits to various unnamed islands in the Pacific. He sends his regards to all old friends, especially Bill Mathes, Earle Daniels, Frank Belcher, Joe Crider, and members of the Board of Trustees. He says he has met many men from "back home," some of whom were well known California lawyers, including Ray Robinson, former member of the Board of Governors, and Martin Meaney of San Francisco. Jack says its "a rugged life" where the war is "an actuality and where things are planned and done"; that it is too bad all can't see the effects of war. If they could it would bring home more forcefully the horrible realities and "invite a determination to do all necessary and make any needed sacrifices to win."

In Africa: Lt. Jacob J. Moidel writes Pres. Mathes from North Africa that many lawyers are in that field of action, almost enough for a North African branch of the L. A. Bar Association. He wishes to assure the local bar that bar members in the armed forces there "are rendering a great service to Uncle Sam everywhere," and that American soldiers are "writing a brilliant page in the histoy of the war over here."

Private Bob Morris, who as the chairman of the Junior Barristers, was member of the Board of Trustees, where his sound judgment and pleasing personality was always welcome, writes Pres. Mathes from an eastern training base. He says they are kept on the go from 6 a. m. till 11 p. m.—"sometimes the monotony is varied by starting at 5 a. m.." The primary object, he says, "is to teach rifle marksmanship, and we spend on the average four hours a day learning how to aim, squeeze the trigger, get the proper positions to operate the bolt. * * * Needless to say this new life is so strange that I have to pinch myself to believe that this is Bob Morris of L. A. The pangs are great for the practice, Bar work and your good company, but as long as the job has to be done, I am happy to be a part of the crew."

BAR ASSOCIATION PROTESTS JAPS' RETURN

PROTESTING any plan to allow Japs to be returned to the Pacific Coast combat area, the Board of Trustees adopted a resolution calling upon California members of Congress to oppose any movement seeking to accomplish that purpose. The resolution follows:

"WHEREAS, Military necessity dictated the prompt removal, after Pearl Harbor, of all Japanese from the Pacific Coast, which was officially and wisely designated a combat area, and wherein are situated vast industries wholly engaged in the production of the most critical war materials; and

"WHEREAS, plans and proposals to remove and disperse such Japanese from the relocation centers where they are now held, and to modify or lift the Military regulations that now forbid their return to this Military Zone are being widely agitated, and considered;

"NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Los Angeles Bar Association on this 25th day of May, 1943, that to permit the return of persons of the Japanese race to the Pacific Coast combat area would afford opportunity for numerous acts of sabotage that might endanger and impair the vast war facilities of this area, and create an unnecessary and unwarranted threat not only to this coast but to the entire nation;

"RESOLVED FURTHER, that the Los Angeles Bar Association hereby records its opposition to the return of any Japanese to the Pacific Coast combat area, and calls upon California Senators and Representatives in the Congress to oppose actively the consideration of any plan or movement seeking to accomplish that purpose until the Japanese aggressor enemy is crushed and surrenders unconditionally."

A SYMBOL OF SERVICE

THE SEAL of the Los Angeles Bar Association shown above is the symbol of 55 years of service to the lawyers and the public of Los Angeles County.

If it means anything to you, as a member, won't you give it your active, continuous support by entering into its various activities with the same loyalty and enthusiasm displayed by the minority that has always kept it among the top Bar Associations of our country.

If you are not a member, then why not join, and associate yourself with some 1800 other lawyers of the county who, year after year, find it not only worth while to pay the insignificent membership dues, and work on its committees but consider it a professional duty to do so.

If you do not think it is doing anything worth while for you, why not take the little time necessary to find out what it is really doing? You will be surprised to learn that it is doing work you probably never suspected, the benefits of which largely redound to you, whether you are a member or a non-member.

During the more than half a century of its service to the Public and the Bar, the membership rolls, the records of officers and its committees, have carried the names of more than a majority of the lawyers, who were or are leaders of our profession in this county; many of whom are now serving on the bench in the several courts of the State.

President Mathes has appointed a Past Presidents' Committee, composed of all former presidents of the Association who are now engaged in private practice in this county, to "assist in prevenitng unnecessary lapses of memberships, to encourage former members and others who should belong," to apply for membership and support the Association.

While the present need of a live, militant Bar such as ours now is, is very great, it will be even greater when the war is over.

The Past President's Committee is made up of the following:

Jefferson P. Chandler	Irving M. Walker
Richard J. Dillon	Robert P. Jennings
Oscar C. Mueller	Lawrence L. Larrabee
Edwin A. Meserve	William H. Anderson
Frank James	Joe Crider, Jr.
Oscar Lawler	Edward D. Lyman
Robert M. Clarke	Loyd Wright
Eugene Overton	Frank B. Belcher
Kemper Campbell	Allen W. Ashburn
Hubert Y. Morrow	Herbert Freston
Guy R. Crump	John C. Macfarland
Norman Bailie	George M. Breslin, ***Chairman***

COMMENTS ON THE CURRENT TAX PAYMENT ACT OF 1943

Walter L. Nossaman, of the Los Angeles Bar

"* * * and the crooked shall be made straight, and the rough places plain."—Isaiah 40, 4.

THE latest tax act may aid in a minor way in making the crooked straight, thus promoting, infinitestimally, the ancient Hebrew poet's first objective; but it bears no evidence of any purpose or even desire to make the rough places plain. In fact, like all other recent ordinances dealing with the revenue, it furnishes some indications of the opposite tendency.

The Editor of the BULLETIN, in requesting that I comment on this act, suggested emphasizing those of its features in which lawyers, considered not as such, but as taxpaying members of a professional class, might be especially interested. I shall therefore deal mainly with the new Sections 58, 59 and 60 of the Internal Revenue Code relative to declaration and payment of tax by individuals whose income is derived from sources other than wages,[1] and with those provisions which relate to "forgiveness."

I. DECLARATION OF ESTIMATED TAX.

Section 58 requires every individual (excluding estates and trusts) to make a declaration of his estimated tax for the taxable year if

(1) His gross income from *wages* can reasonably be expected (A), if the taxpayer is single,[2] to exceed $2,700 for the taxable year, or (B) if the taxpayer is married,[3] to exceed (together with the spouse's income from wages) $3,500;[4] or

(2) His gross income from *sources other than wages* can reasonably be expected (A), if the taxpayer is single, to exceed $100 *and* his gross income from all sources is such as will require a return under Section 51;[5] or (B) if the taxpayer is married, to exceed (together with the spouse's income from sources other than wages) $100, *and* the aggregate gross income of the spouses from all sources is such as will require a return under Sections 51[6] or 455.[7]

II. CONTENTS OF DECLARATION.

In the declaration the taxpayer is required to state:

(1) The amount which he estimates as the amount of his tax for the taxable year without regard to credits under Sections 32, 35 and 466 (e).[8]

(2) The amount which he estimates as the credits for the taxable year under Sections 32, 35 and 466 (e).[8]

The excess of (1) over (2) is the estimated tax.

Husbands and wives, living together, may make joint declarations of the

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[1] A new Section 1621, I.R.C., defines *wages* for the purposes of the withholding provisions inserted by the 1943 Act as Subchapter D of Ch. 9, I.R.C., Secs. 1621-1632.

[2] *Single* includes married individuals not living with husband or wife.

[3] *Married* means living with husband or wife.

[4] Return is also required where gross income from wages for the preceding taxable year exceeded the specified amounts.

[5] That is, having a gross income of $500 or more.

[6] That is, having an aggregate gross income of $1,200 or more.

[7] The Victory tax requiring returns of individual gross incomes in excess of $624.

Omitted above are: Reference to a clause in Sec. 58 (a) (2) (B) dealing with a case where combined income, other than wages, of the spouses exceeded $100 for the preceding year, and a return for that year would have been required if then married; and Sec. 58 (a) (3) (wage income for 1942 greater than 1943).

[8] Sec. 32 relates to taxes withheld at source (tax-free covenant bonds, etc.); Secs. 35 and 466 (e) relate to credit for tax withheld on wages (Victory tax, 5%).

estimated tax but may nevertheless make separate returns (Sec. 58 (c), I.R.C.). In that case the estimated tax may be treated (apparently at the spouses' election) as the estimated tax of either, or divided between them.

III. Time of Filing.

On a calendar year basis, the declaration of estimated tax must be filed with the Collector by the 15th of March in 1944 and subsequent years (Sec. 58 (d)). For 1943, September 15th is the applicable date (Sec. 60 (c)). Amendments or revisions of the declaration may be filed on or before the 15th day of the last month of any quarter of the taxable year subsequent to that in which the declaration was filed "and in which no previous amendments or revisions have been made or filed." (Sec. 58 (d).) This seems to limit revisions or amendments to one per quarter.

IV. Payment of Estimated Tax.

The estimated tax is payable in equal installments, one at the time of making the declaration and subsequent installments on the 15th day of the last month of each succeeding quarter. (Sec. 59 (a).) Where, therefore, the declaration is filed on or before March 15th, installments will be due on the 15th days of March, June, September and December, as at present. If an amendment or revision of a declaration is filed, the remaining installments are ratably increased or decreased as the case may be to reflect the increase or decrease in the estimated tax. (Sec. 59 (a) (2).)

V. Tax for 1942 Forgiven.

The tax for 1942 is forgiven as of September 1, 1943 (Sec. 6 (a) and (b), 1943 Act). But forgiveness of our taxes, unlike forgiveness of our trespasses, is not given freely. There is a string attached. The particulars seem to amount to this (Sec. 6, 1943 Act):

(a) *Where 1942 Tax Is Less Than (or Equal To) 1943 Tax.*

If the 1942 tax (determined without regard to forgiveness, or to interest or additions to the tax, or to credits for amounts withheld at source), is *not greater* than the 1943 tax, similarly determined, and if the 1942 tax exceeds $50, the 1943 tax is increased by 25% of the 1942 tax or by its excess over $50, whichever is the lesser.

(b) *Where 1942 Tax Is Greater Than 1943 Tax.*

If the 1942 tax (determined as in (a)) is *greater* than the 1943 tax similarly determined, the 1943 tax shall be increased by (1) the amount by which the tax for 1942[9] exceeds that for 1943,[10] plus (2) 25% of the tax for 1943[10] (if the 1943 tax is more than $50), or the excess of the 1943 tax over $50, whichever is the lesser. The amount to be added (under (2)) shall in no case exceed 25% of the 1942 tax[11] or its excess over $50, whichever is the lesser.

This amounts to saying (ignoring certain details) that:

(1) If the 1942 tax is *less than* the 1943 tax, you add 25% of the 1942 tax to that for 1943 (the smaller tax is three-quarters forgiven);

(2) If the 1942 tax is *greater* than the 1943 tax, you pay the 1942 and 25% of the 1943 tax (again, the smaller tax is three-quarters forgiven).

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[9]Without regard to forgiveness, or to interest or additions.

[10]Determined as stated in Note 9, and without regard to credits under Secs. 466 (e) or 35 (Victory Tax withheld).

[11]Determined as stated in Note 9.

VI. 1942 OR 1943 WINDFALLS.

Taxpayers whose surtax net income (all income above personal exemption and credit for dependents) for 1942 or 1943 exceeds $20,000 need to worry about a further point. For this purpose the taxpayer selects a "base-year"—1937, '38, '39 or '40 at his election—for purposes of comparison. Naturally he will select that one of those years in which his surtax net income was the highest. He will obtain forgiveness under (a) or (b) of Section 6 (see Paragraph V (a) and (b), above), but he has to pay an additional premium (Sec. 6 (c)). His additional 1943 liability, if any, will be determined as follows:

(1) *Where 1942 Tax Is Less Than (or Equal To) 1943 Tax.*

In this case, if the surtax net income for the base year, plus $20,000, is less than that for *1942*, the tax for 1943 is increased by the excess of 75% of the *1942* tax[12] over a tentative tax computed as if the portion of the 1942 surtax net income which is not greater than the sum of the surtax net income for the base year plus $20,000 constituted both the *surtax* net income and the *net* income for 1942 after allowing all credits against net income.

(2) *Where 1942 Tax Is Greater Than 1943 Tax.*

In this case, if the surtax net income for the base year, plus $20,000, is less than that for *1943*, the tax for 1943 shall be increased by the excess of 75% of the *1943* tax over a tentative tax for 1943[12] computed as if the portion of the 1943 surtax net income which is not greater than the sum of the surtax net income for the base year plus $20,000 constituted both the *surtax* net income and the *net* income for 1943, after allowing all credits against net income.

Translating these somewhat involved provisions:

First: Where (1) the 1942 tax is *not greater* than the 1943 (Paragraph V (a) above), and (2) the surtax net income for *1942* exceeds by more than $20,000 the surtax net income for the base year, you compute a tentative tax, arbitrarily using as *surtax* net income and as *net* income for 1942 an amount equal to the surtax net income for the base year plus $20,000 (ignoring any excess of 1942 surtax net income over that total). Subtract this total from 75% of the 1942 tax.[13] The difference will be the additional amount to be added to the 1943 tax.

Second: Where (1) the 1942 tax is *greater* than the 1943 (Paragraph V (b) above), and (2) the surtax net income for *1943* exceeds by more than $20,000 the surtax net income for the base year, you compute a tentative tax, arbitrarily using as *surtax* net income and as *net* income for 1943, an amount equal to the surtax net income for the base year plus $20,000 (ignoring any excess of 1943 surtax net income over that total). Subtract this total from 75% of the 1943 tax.[13] The difference will be the additional amount to be added to the 1943 tax.

The substantial effect of these provisions is to reduce the portion of the tax which would otherwise be forgiven by the amount by which the forgiven portion (that is, the 75% determined under paragraph V, above) exceeds the tax which would have been paid in 1942 or 1943 upon an income equal to the surtax net income of the base year plus $20,000.

VII. SPECIAL RULES RELATIVE TO MEMBERS OF THE ARMED FORCES.

If a taxpayer is in active service in the armed forces of the United States or any of the other United Nations during any part of 1942 or 1943, the increase in the 1943 tax in the case mentioned in Paragraph V (b) (1) above (1942 tax

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[12]Determined without regard to forgiveness or to any additions for penalties or interest.

[13]For method of computation, see Note 12.

greater than 1943), is reduced by an amount equal to the amount by which the 1942 tax is increased by including earned net income in net income. (Sec. 6 (d) (1).) In other words, the taxpayer's 1942 liability is to be recomputed, excluding earned income.

Another change affecting members of the armed forces but applying only *after* 1942, is an exclusion from gross income (liberalizing former provisions) of compensation for active service up to $1,500 in amount (Sec. 7, 1943 Act). Those dying in active service are not liable for income taxes for the year in which the date of death falls, and their then existing income tax liabilities for prior years are cancelled (Sec. 8, 1943 Act).

VIII. Payment of 1942 and 1943 Taxes.

(1) *Treatment of Payments on Account of 1942 Tax.*

Any payment (other than interest and additions to the tax) made on account of his 1942 tax by a taxpayer whose liability for that year's tax is discharged under subsections (a) and (b) of Section 6, 1943 Act (see Paragraph V, above) is considered as payment on account of the estimated tax for 1943 (Section 6 (f), 1943 Act).

(2) *Payment of Increase in 1943 Tax.*

As above noted, beginning in 1944, the tax is to be paid quarterly as under the present system. The 25% increase in the 1943 tax (Paragraph V (a) and (b) above) is payable March 15, 1944.[14] It does not have to be paid in 1943 (Sec. 6 (d) (6), 1943 Act; Conf. Rep., Current Tax Payment Act.) Sec. 6 (e) requires the Commissioner, at the taxpayer's election. to extend the time of payment of one-half of that increase to March 15, 1945.[14] A bond may be required. No interest is payable for the extension period (Sec. 6 (e) (1)), if the tax is paid on the due date as extended.

It should be noted that any increase in the 1943 tax *caused by bringing it up to the 1942 level* (see Paragraph V (b) above), and not by augmenting it by the unforgiven 25%, has to be paid in 1943. That means, simply, that the 1942 tax must be paid in any event, and currently.

(3) Where the 1943 tax is increased by the "windfall" provisions (Paragraph VI, above), the Commissioner is required at the taxpayer's election to extend the time of payment of the amount of that particular increase, making it payable in four annual installments, the first on March 15, 1945.[14] A bond may be required. Deferred payments bear 4% interest, 6% after maturity. If not extended, the increase in tax will be due March 15, 1944. Like the 25% increase referred to above, this increase does not have to be paid in 1943.

IX. Penalties.

(Sec. 294 (a), I.R.C., as amended by Sec. 5 (b), 1943 Act)

There are certain penalties for not filing declarations on time (10% of the tax); for not paying when due (2½% of the tax); and for underestimating the tax. For these purposes the increase of the 1943 tax by the amount of the "unforgiven" 1942 tax is ignored. (Sec. 6 (d) (6), 1943 Act.)

The penalty for underestimate should be noted. A 20% margin for error is allowed everyone except farmers, who are allowed 33 1/3%. (A "farmer" is a person deriving at least 80% of his gross income from farming.) If 80% of the actual[15] tax exceeds the estimated tax,[16] the lesser of the following

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[14] A calendar year basis is assumed.

[15] Determined without regard to credits under Secs. 32, 35 and 466 (e). See Note 8, *supra*.

[16] Increased by the credits mentioned in Note 15.

amounts is added as a penalty: (1) an amount equal to the excess of 80% of the actual tax over the estimated tax, or (2) 6% of the excess of the actual tax over the estimated tax. An underestimate not exceeding 20% of the tax carries no penalty. An underestimate exceeding that percentage carries a penalty computed according to one or the other of the above formulas. If the estimate is 79% of the actual tax, the penalty on one basis will be 1% (80% minus 79%) and on the other will be 1.26% (6% of 21%). The first alternative would govern, that being the lesser amount. Computation shows that the two penalties are almost identical when the estimated tax is approximately 78.7234% of the actual tax. If there is a greater understatement than that, the 6% penalty applies. If the taxpayer comes closer to the actual tax than 78.7234%, he will pay on the basis of the difference between the estimated tax and 80% of the tax.

X. Certain Taxpayers to Whom the 1943 Amendments Are Not Applicable.

As above noted, the provisions for current payments do not apply to estates and trusts. These continue on the former basis. Payments received by beneficiaries of estates and trusts will be subject to the 1943 act. The income tax of individuals dying during 1942 is payable as under the former law. Sec. 6 (d) (7). The act makes no special provision as to individuals dying in 1943. Their 1942 taxes will be discharged to the same extent and in the same manner as the taxes of other individuals. See Paragraph V, above.

Summary.[17]

The principal matters of immediate concern to lawyers and other professional workers are the following:

(1) Pay the June and September installments of 1942 taxes.

(2) On or before September 15, 1943, file declaration of estimated 1943 tax.

(3) Pay in two installments, on or before September 15th and December 15, 1943, the balance of the tax estimated on the 1943 declaration. You are not required to pay in 1943 the 25% of 1942 or 1943 tax added under Sec. 6 (a) or (b) (2) (see Paragraph VIII (2) above), or the increased amount due to "windfalls" (see Paragraph VIII (3), above). But you do have to keep on paying your 1942 taxes, as a minimum; or, if your 1943 income is going to be higher, pay currently on the higher basis.

(4) If the September 15th declaration is found to be incorrect, file amendments or a revised declaration on or before December 15, 1943.

(5) File a final 1943 return[18] on or before March 15, 1944, and pay any part of the 1943 tax not paid during 1943.

Collection at Source.

The provisions of the 1943 Act [19] relative to collection of income tax at source on wages are of interest to lawyers whether they are employers or employees. These provisions, effective July 1, 1943, and applicable to all wages paid or or after that date, are extensive and detailed. They will not be discussed here. Obviously, someone in every establishment employing wage earners will have to acquire a working familiarity with these provisions at an early date.

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[17] The various time limits specified are extended for members of the armed forces outside the United States, and for other persons outside the Americas, as provided in Sec. 3804 (e) (2), I.R.C.

[18] This is not referred to in the 1943 Act, but is required under 56 (a), I.R.C., not amended by this Act. See also Conf. Rep. on Current Tax Payment Bill, H.R. 2570, 78th Cong.

[19] Secs. 2-4.

WITH THE BOARD OF TRUSTEES

Coordination With State Bar: The President was authorized to appoint a Special Committee to confer with the officers and Governors of the State Bar, to follow the activities of that body and to make reports and recommendations to the Board of Trustees on ways and means of coordinating the activities of the Los Angeles Bar Association with those of the State Bar, so as to assure maximum cooperation and avoid, wherever possible, unnecessary duplication of effort and activities.

A similar committee was authorized to follow the activities of the American Bar Association and report to the Board on ways and means of coordinating our work with that of the National Association.

Junior Barristers and Legal Aid: Because most of our junior barristers are now in the armed forces, and are no longer able to carry on Legal Aid work, the Board authorized the appointment of a special committee, to be known as the Committee on Legal Aid work, which shall recommend remedial measures for the protection of the legal rights of indigent persons; to encourage the establishment of legal aid clinics; to recruit the services of lawyer volunteers to meet the requirements of the Los Angeles Legal Aid Foundation, and to cooperate with persons and agencies, public and private, who are interested in these objects.

Radio Programs: The radio programs which for several years have been conducted by the Junior Barristers over KFAC, Mondays at 7:30 p. m., and who are no longer able to carry the full burden, will be taken over by a new Radio Committee, which will plan a comprehensive plan for future programs, under the sponsorship of the Association, and the supervision of the Trustees.

Post-War Planning: The Board authorized the President to appoint a Special Committee, to be known as Committee on Post-War Planning, whose duties shall be to study the problems likely to confront lawyers returning from war service, to devise plans to meet such problems, and to make periodical reports to the Trustees.

Bill of Rights: Appointment of a Committee on Bill of Rights was authorized, to investigate the facts with respect to any official abridgement, denial or disregard of constitutional rights which may come to the Committee's attention, and report their findings and recommendations to the Trustees.

COMMENT, CRITICISM AND CHEERS

Cheers For The Journal: The March-April issue of the State Bar Journal was outstanding in the excellence of its contents. It has variety, a wealth of instructive editorials and well written articles. President Frank Belcher's "The Bar and The War"; Judge Goodwin J. Knight's, "A Few Judicial Suggestions," and Hilary H. Crawford's "Much of History and a Little Law," were particularly good. In fact, everything in this Journal is well worth reading. It is one of those rare "cover to cover" issues.

Victory Speakers: While Bar Associations in other large cities are deluged with requests for lawyer-speakers to address social, civic, fraternal

and business groups on subjects related to the war, as well as Bar activities, it does not appear that there is any such demand in Los Angeles. Why is this? Is it because we do not enjoy a comparable public prestige with the Chicago and Cleveland Associations, or haven't we competent speakers willing to fill such requests? Somebody is overlooking an opportunity.

Centralized Bureaucracy: Judge Hatton Sumners, Chairman of the House Judiciary Committee, was 100 percent right when he said: "Do I think there is a real danger that our democracy may be destroyed by our own acts? I don't think it. I know it. It is axiomatic that whoever controls the purse-strings controls the government. Either we decentralize government or we have to make up our minds to be governed by the kind of government we are supposed to be opposed to." The lawyers, he said, traditionally the greatest champions of democracy, must raise their voices in protest over the delegation of governmental powers to appointed groups.

Are we doing it? Not so one could notice it.

Pornerastic: A case against some hotel owners for operating alleged houses of prostitution was called in a New York court. The judge ordered the clerk to notify the war manpower office there was a lot of husky looking material in the court room that should be in war work. As the clerk reached for the phone there was a hurried exodus of male spectators.

War's Effect on London Bar: Only 23 were called to the Bar in Hilary term, 1943, among the four Inns of Court; 8 at the Middle Temple, 7 at Gray's Inn, 5 at the Inner Temple and 3 at Lincoln's Inn. Of these 9 were from the Dominions, Colonies or India. After the last war there was a period of some years when admissions to the Inns of Court beat all previous records.

Lawyers' Reference Service: St. Louis Bar Association says its Lawyers' Reference Service has been a complete success, after 13 months' operation. It stresses talks before service clubs, civic groups, church groups and use of radio. During the year 350 persons applied for a reference. The type of cases covered the entire field of general practice. Most were domestic relations cases.

War Bond Titles: Does property in war bonds descend only according to the law of the state? Is the designation of a beneficiary in a bond a testamentary act that complies with the formal requirements of a will? These are questions raised as the result of a decision of the Surrogates Court, Buffalo, N. Y. The court ruled that a decedent's war bonds were a part of the estate and did not pass to a brother designated in the bond as beneficiary. The U. S. attorney filed a brief, contending that the power of the Government to borrow money is not subject to restriction by the laws of any state: that the regulations of the Treasury department, prescribing how purchasers, co-owners and beneficiaries shall be paid, must be regarded as having the same effect as federal statutes; that such regulations could not be altered by state law or state courts.

A nice issue. Perhaps some of our readers would like to discuss it in THE BULLETIN.

Lay Bootleggers: Chairman Otterbourg, Chairman of the A. B. A. committee on unauthorized practice of law, announces that his committee

has published a compendium of references to decisions on unauthorized practice and copies of agreements and statements of principles subscribed by the committee and the national representatives of six lines of activitiy which have sometimes encroached upon law practice. Copies may be obtained for one dollar from Fred B. H. Spellman, Alva, Oklahoma. Mr. Otterbourg says that during the last war "lay bootleggers" of legal service invaded the profession's field to the great detriment of the public and the administration of justice, and the Bar has been busy ever since combatting the evil. He believes this may happen again if bar associations do not continue their committees on authorized practice.

Clearing Court Calendars in Ancient Rome: Writing of the administration of justice during the reign of Emperor Vespasian, 69-79 A.D., Suetonius tells how the court calendars were cleared:

> "Lawsuit upon lawsuit had accumulated in all the courts to an excessive degree, since those of longstanding were left unsettled through the interruption of court business and new ones had arisen through the disorder of the times. He therefore chose commissioners by lot to restore what had been seized in time of war, and to make special decisions in the Courts of the Hundred, reducing the cases to the smallest possible number, since it was clear that the lifetime of the litigants would not suffice for the proceedings."

A forerunner *of things* to come?

Backfire: Counsel to Police Judge: "If he was on his knees in the middle of the road it doesn't prove he was drunk."

Witness: "No, it does not, but this one was trying to roll up the white line."

Investigation: The Board of Trustees of the Los Angeles Bar Association recently considered a communication from the State Bar relative to attorneys employed in the City Public Defender's office engaging in private law practice, and the alleged practice of referring cases to attorneys whose names appear on a limited list approved by that office.

The Board appointed a committee to ascertain the salaries of attorneys employed in the City Public Defender's office, and the salaries of other attorneys employed by the City of Los Angeles, and particularly whether the salaries of such attorneys are fixed in contemplation of their engaging in private practice.

Inquiry developed that both the City Attorney and the City Public Defender had adopted a rule that employed attorneys should not engage in private practice, except to the extent of clearing old cases pending at the time they were employed.

Pomona Valley Bar: At the annual meeting of the Pomona Valley Bar Association, Walker W. Downs, La Verne, was elected president; Albert H. Miller, Azusa, first vice-president; Donald P. Nichols, Pomona, second vice-president; Seth Colver, Covina, secretary, and James G. Whyte, Pomona, assisitant secretary. Trustees: Gerald E. Sanford, Claremont; Lance Smith, Puente, and Walter Guerin, Pomona. Frank B. Belcher, president of the State Bar, addressed the meeting, which was held at Pomona, on the activities of the State Bar.

State Bar Convention: Those who intend to go to the State Bar convention at San Francisco, September 15 and 16, are urged to make early reservations, either through the State Bar office, or with hotels. The Conference of Delegates will meet for one day, September 15, and the convention on September 16. The program will be announced later. The Los Angeles Bar Association Conference held its first meeting June 11. James B. Salem is chairman of the delegation.

F. B. I. Age Limit: The age limit of qualified applicants for employment in the F. B. I. has been raised from 23 to 35 years to 23 to 40 years. Those over 35 may therefore make application for the position of special agent.

STATE BAR DISCIPLINARY PROCEEDINGS

By Victor P. Showers, of the Los Angeles Bar*

THIS article is written for the benefit of those attorneys who are not familiar with The State Bar disciplinary proceedings, and also for the benefit of the public, who may have occasion to invoke such proceedings. Its purpose is to show the work involved and to present a summary of the procedure followed when a complaint is made against an attorney for unprofessional or unethical conduct. The many questions asked, both by attorneys and the public, concerning the proceedings, indicate that such an article would be helpful and appropriate.

The State Bar is a Public Corporation. We elect a Board of Governors to govern that corporation. Like any other large organization it requires many officers, employes and committees to care for its administration. As a licensed attorney you are a member of this corporation, and it is identified as being a self-governed bar. The members of necessity are called upon to cooperate in the handling of this administration.

After reading this article, you may be more willing to respond to inquiries and appear before Bar Committees, which are trying to solve the many problems presented to The State Bar. A complaint, filed by a client or initiated by the Board of Governors, may lead to serious consequences and demands immediate and careful attention.

The Board and the Committees, as well as the Examiners appointed by the Committees, give liberally of their time, without compensation. They spend long hours endeavoring to work out your problems, feeling amply rewarded by their realization of a duty well performed.

We are governed by The State Bar Act, which is set forth in Section 6000 to 6154 of the Business and Professions Code, the Rules and Regulations governing the State Bar, and the Rules of Professional Conduct promulgated and adopted by the Board of Governors and approved by the Supreme Court. Rules of procedure have also been thus adopted by the Board for handling of disciplinary matters. These should all be read carefully by every attorney. This is not the exclusive manner of handling disciplinary proceedings as there is reserved in the Courts, under Article 6 of the Business and Professions Code, the power in the Courts to initiate such proceedings. Very few cases now originate in Court proceedings, and the Courts themselves are referring such matters to the Board of Governors for action.

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*For several years, the author has served as an examiner for the State Bar and as a member of a Local Administrative Committee. He is now a member of Local Administrative Committee Two for Los Angeles County.

The procedure outlined is that followed in the Los Angeles office of the State Bar, and other Counties are similarly cared for by their local administrative committees.

The State Bar offices maintained in San Francisco and Los Angeles are open to the public during business hours, and anyone may submit to it, in writing, or go to the office and lay before the Secretary or Assistant Secretary, any matters that indicate that an attorney has not properly conducted himself or is guilty of professional misconduct. Each matter is given thorough and impersonal consideration and the Secretary or Assistant Secretary, being authorized so to do, may dismiss the matter as frivolous, or on the ground that it covers matters of a purely civil nature, not involving matters of misconduct. If the facts are uncertain, the attorney may be given an opportunity to make an explanation and the misunderstanding cleared up. Misunderstandings are promptly adjusted and time and reputations and often clients are saved to the attorney.

Should the matter involved appear of a serious nature, the written statement of the complaining witness or one prepared by the Secretary is submitted to what is known as a Local Administrative Committee. Local Administrative Committee No. One, for Los Angeles County, composed, in part, of local members of the Board of Governors, has and exercises general supervision over all Local Administrative Committees for said County. In Los Angeles County, matters involving misconduct of attorneys are referred to Local Administrative Committee No. Two and, after consideration, it may either dismiss the matter as not supported by the facts or order the complaining witness and the respondent attorney to appear before it for an informal preliminary hearing. The parties appear, at the time designated, with their witnesses and documentary evidence, and are subjected to examination by the Committee. Witnesses need not be sworn at this preliminary hearing nor is the committee required to make a permanent record of the testimony.

At the conclusion of this hearing Committee Two takes the matter under submission and may then dismiss the proceedings as unfounded or not supported by sufficient facts, or it may find that the evidence presented at the preliminary hearing justifies and requires that the matter should be referred to a Trial Committee. In the latter case, a Notice to Show Cause is issued by Committee Two setting forth therein the facts forming the grounds of complaint and directing the respondent attorney to appear before a designated Trial Committee at a time and place specified and to then and there show cause, if any he has, why he should not be disciplined, based on the violations alleged in the Notice. The attorney is permitted to file an answer to the charges set forth and he should do so in order that the Trial Committee may be advised of the grounds on which the respondent attorney relies as a defense to the charges contained in the Notice to Show Cause. The respondent attorney is not, however, precluded by failure to file an answer from introducing any competent evidence in refutation of such charges. Also, the Notice to Show Cause and the answer, if one is filed, constitute the formal pleadings in the case throughout the remaining proceedings. An Examiner is appointed by Committee Two and he represents The State Bar in the hearing before the Trial Committee. The respondent attorney has the right to counsel of his own choice.

The Trial Committee is also a Local Administrative Committee, composed of three members, including the chairman, and is authorized by law to try the issues.

This hearing before the Trial Committee is more formal and strictly private. Witnesses may be excluded as in other cases. Witnesses are sworn and the

case is reported by a paid reporter. Both oral and documentary evidence is admissable, direct and cross-examination permitted, and legal evidence only is received by the Committee. The power of subpoena is available to bring in a witness or documentary evidence and also to take depositions. The State Bar puts on its evidence and then the respondent attorney presents his evidence. At the close of the hearing the matter is taken under submission. The Trial Committee acts only by way of recommendation, although it is required to make written findings of fact and its conclusions as to which, if any, of the charges alleged in the Notice, are supported by the facts found. The Notice to Show Cause may be amended for clarification or to allege other charges as disclosed by the evidence. The Trial Committee may recommend dismissal of the proceedings, a public or private reprimand, suspension or disbarment. Once a Notice to Show Cause is issued, no Committee has authority to dismiss a proceedings, as this is solely within the jurisdiction of the Board of Governors or the reviewing Court.

The findings and conclusions and the recommendations of the Trial Committee are then presented to the Board of Governors. A time is fixed for a hearing before the Board, notice given to the respondent attorney, and the entire record is reviewed and argument is permitted by counsel. It may hear additional testimony or even order a trial *de novo*. The Board may dismiss the matter or give a private or public reprimand. If it finds the attorney should receive greater discipline, it may recommend that the attorney be suspended from practice for a given time or a full disbarment. If a suspension or disbarment is recommended, the entire record goes to the Supreme Court.

An attorney may petition for a review of the action of the Board of Governors, in which case it is set for hearing and argument of counsel presented. The Supreme Court may approve the recommendations of the Board of Governors or reduce or increase the discipline or dismiss the entire proceedings. As with a Trial Court, we find at times that the Supreme Court takes a different position in the matter. It is seldom that a case is dismissed and then this is generally by a divided court. The Supreme Court takes the position that the Trial Committee and Board of Governors have had the opportunity of close investigation of the facts and their recommendations should be given full consideration.

Whether an attorney receives an order of reprimand, suspension or disbarment, he is in no position to complain that he has not received a full, complete, fair and impartial hearing.

With the great number of attorneys practicing in a state as large as California, it is to be expected that there will be some, among this large number, who will knowingly violate their oath of office and others who may have a misconception of their duties as attorneys.

In the latter class, the offenses are mostly infringements, such as advertising, neglecting to prosecute a case with expedition, commingling of funds, failure to remit collections promptly, or erroneously believing they have a lien on the funds for fees. When called to the attention of the attorney, he readily clears up the matter and agrees to avoid its recurrence. It might be in order to suggest to attorneys that a simple contract of employment setting forth the terms of agreement and authorizing deductions of fees would avoid embarrassment and misunderstandings.

In the first class, the offenses are generally the result of negligence, financial difficulties or liquor, although some, of course, are of wilful misconduct. Intent

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THE WAR AND THE LAW SCHOOLS*

Young B. Smith, Dean, Columbia University School of Law

THERE will be no more able-bodied young men entering law schools until after the war. Furthermore, those who were already enrolled have been called out or have enlisted at such a rapid rate that today the student bodies of law schools have been reduced to a small number of men who are physically disqualified for military service and a few women.

Statistics recently published by the American Bar Association show that in the 110 approved law schools in the United States, the total number of students enrolled has dropped from 28,174 in 1938, to 5,686 in March, 1943, a reduction of approximately 80 percent. The enactment of the Selective Service Act in 1940 brought about a sharp decline in law school registration during the following twelve months, but there were still 18,449 registered law students at the time of the attack upon Pearl Harbor. Thus, it appears that over half the reduction in the number of law students since 1938 occurred after December, 1941.

A good part of the present enrollment of 5,685 law students is concentrated in the evening divisions of a relatively small number of schools located in large cities. The condition of the schools generally, particularly those conducting only day sessions, is more serious than the total enrollment indicates. Today 33 percent of the schools have less than 30 students, 56 percent of the schools have less than 40 students, and 80 percent of the schools have less than 70 students. It seems inevitable that in the near future a number of schools will be forced to close their doors.

Scarcity of Young Lawyers

One effect, already felt, of so great a reduction in the number of law students throughout the nation is a scarcity of able young lawyers from whom the legal staffs of government agencies may be recruited. Even in normal times, the number of law graduates of superior ability was relatively small. Today, the number of such men is rapidly approaching the vanishing point. This inevitably will impair the personnel of many departments of government. Moreover, the use of law-trained men by the armed forces is far more extensive than is commonly supposed.

In order to meet these needs without harm to the war effort, it has been proposed to the military authorities that a limited number of men, selected upon the basis of their superior ability, be chosen from the group of young men who for physical reasons are eligible only for limited military service, and be sent to law school to be trained for legal positions with the Government or in the Army and Navy. There are thousands of such men now in the armed forces, who are disqualified for combat duty. Many of them are college graduates, and many others also have completed part of their law training. Instead of keeping these men in clerical or other positions in the Army where little use is made of their education and abilities, would it not be wise to return some of them to the universities where in a short time they could be equipped for more important and more responsible work? Under the programs of the Army and Navy already adopted, it is planned that a selected group of men will be kept in school to be trained as engineers, doctors, and certain other specialists, where the need is recognized. But the need for able men, trained in the fields of law and government, has thus far received slight consideration.

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*Excerpts from the Report of the Dean of the School of Law to the President of the University, April 3, 1943.

The War and Education

The war has accentuated the need for men trained in technology and in the mechanical arts. This need is being met through the university training programs that have been adopted by the Army and Navy, but these programs have also stopped all education in the liberal arts and in the social sciences for the millions of young Americans who are being called into military service. The temporary suspension of liberal education and the study of the social sciences may be justified on grounds of military necessity, but the ultimate loss to the nation is no less because it is inflicted in a good cause.

The danger in the present situation to the future of our country and to the institutions and ideals for which we are fighting was forcefully stated by Wendell Willkie in an address delivered at Duke University on January 14, 1943. The decision of the military authorities to restrict the educational programs to subjects of military value increases the responsibility of the universities to keep alive the tradition of the liberal arts and the study of the social sciences through the education of women and those men who are disqualified for military service. Furthermore, it is the duty of those in charge of our armed forces to make every effort to aid the young men whose education has been interrupted to plan and to resume their schooling after the war, and it is the duty of the Government to see that the postwar educational opportunities for these young men are adequate and are available to those who are worthy of them. Just as the mechanization of the American youth has been decreed necessary in the interests of war, so will the demechanization of these young men after the war be necessary in the interests of peace. This will require much thought and careful planning before the war is ended if the educational institutions are to be ready to perform the task when the time comes. Herein lies an opportunity for service of major importance by the educators throughout the nation.

Postwar Legal Education

It is recognized that not all of our students will engage in the same kind of work. Indeed, the exact needs of a particular student, in preparation for a future career which he cain rarely foresee, must remain indeterminate. His opportunities may lead him into private practice or into the government service. He may engage in general practice, or he may specialize in a particular field. The possibilities are legion. He may be a trial lawyer or an office lawyer or both. He may become a specialist in corporate work, estates work, tax work, admiralty practice, or in labor relations. He may become a judge, a legislator, or counsel to or a member of an administrative board. Here again, his work may be as varied as the activities regulated by the scores of administrative agencies that have been created. He may be drawn into the diplomatic field or otherwise become engaged in international affairs. These examples are sufficient to show the great variety of work in which lawyers are engaged.

Obviously, it is impossible, within the limits of three years to give the student the best possible training for all the jobs he may be called upon to do. But there are certain skills and qualities that are prerequisite to effective legal work no matter what the field. Also, there is a minimum body of knowledge which all lawyers should acquire. This knowledge is not confined to legal rules, doctrines and practices. It also includes certain knowledge derived from related fields, such as history, politics, economics, and philosophy, without which an understanding of present law and the discernment of current trends is impossible.

It would seem that sound curriculum-building for the postwar era would require, first, the determination of the skills, qualities, and knowledge that are essential to sound legal training, whatever the field of practice may be, and, second, the organization of courses designed to develop these skills and qualities

and to impart this knowledge. These courses should be incorporated into that part of the curriculum required of all students. The giving of this basic training would probably require at least two-thirds of the student's time. The remaining third of his time could be devoted to specialization in particular fields to be determined by the student's interests. For purposes of specialization, a wide range of electives should be available to the student, including courses preparatory for private practice, for government service, and for international work. Through seminars dealing with specific problems, the student may also be given the opportunity to do independent and creative work and given some clinical experience through contacts with the practicing lawyer.

JUVENILE DELINQUENCY

What are you doing about juvenile delinquency? More than you think, if you gave to the Los Angeles Community Chest. Your Chest dollars may not be cutting out delinquency that has already taken root, but they are doing something even more important—laying a groundwork that will prevent delinquency from even getting started!

How? By making possible the work of youth agencies in the community which direct the energies of young people into constructive channels. These agencies you support through your Chest gifts include the Boy Scouts, Woodcraft Rangers, Girl Scouts, Camp Fire Girls, YMCA, YWCA, All Nations Boys Club and youth departments of ten other agencies. Last year Community Chest youth agencies provided wholesome leadership for 104,500 future citizens. This was accomplished because of your generosity.

"INDEPENDENCE FOREVER!"

By George R. Farnum, of the Boston, Massachusetts, Bar,
Former Assistant Attorney General of the United States

* * *

EDWARD Everett Hale recounts the query put by Guizot, the French historian, to James Russell Lowell, "How long do you think the American Republic will endure?" and the latter's response, "So long as the ideas of its founders continue to be dominant." The Declaration of Independence, whose one hundred and sixty-seventh anniversary we celebrate next month, proclaims some of the most crucial of those ideas—the self-evident truths, as they were called, "That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness" and "that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it."

The Declaration embodies few, if any, novel or original ideas. Jefferson, its principal draftsman, declared years afterwards in a letter to a friend that his object was "not to find out new principles, or new arguments, never before thought of, not merely to say things which had never been said before; but to place before mankind the common sense of the subject, in terms so plain and firm as to command their assent, and to justify ourselves in the independent stand we are compelled to take. Neither aiming at originality of principle or sentiment, nor yet copied from any particular and previous writing, it was intended to be an expression of the American mind." In fact, John Adams, one of the committee of five entrusted with its draft, once went so far as to testily observe, "There is not an idea in it but what had been hackneyed in Congress two years before."

It summed up in a few eloquent sentences and with admirable directness the very essence of the doctrine of those natural rights to which men had appealed during the long centuries they had battled with oppression and tyranny, fought for civil and political liberty, and striven to formulate the principles of a free life and a philosophy founded on the worth and importance of the individual. As George Washington put it simply in a letter to General Philip Schuyler, written a few days after its publication to the world, in it the Continental Congress "asserted the claims of the Colonies to the rights of humanity." Emerson declared that its essence is in "a little formula, couched in pure Saxon * * * 'I'm as good as you are.'"

It was the culmination of a long series of famous historic documents that go back to the Magna Charta. It owed much to the philosophy of the English Revolution and the political thought of John Locke, whose "Treatises on Government" has been called the textbook of the American Revolution. In converting Locke's trinity of life, liberty and property to life, liberty and the pursuit of happiness Jefferson significantly put human rights above property interests. The principal credit for being the immediate moving cause of the Declaration of Independence must be given to Thomas Paine's electrifying pamphlet "Common Sense" issued six months previously and widely circulated throughout the Colonies. Published anonymously, it was at the time variously attributed to Samuel Adams, Benjamin Franklin and John Adams. In it the arguments for independence were put with such striking clarity and compelling force that no alternative seemed possible.

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INTERSTATE COOPERATION PAVES WAY FOR FUTURE

By Perry H. Taft, of the Los Angeles Bar*

THE recent Western Regional Conference on Postwar Problems in the States held by the Council of State Governments in San Francisco has again cast light upon one of our little known state agencies. I refer to the California Commission on Interstate Cooperation established by legislative act in 1939 (Chapter 376, Statutes of 1939), sections 322 to 332.6 Political Code. Its purpose as set forth in the act creating it is "to carry forward the participation of this State as a member of the Council of State Governments both regionally and nationally, to confer with officers of other States and of the Federal Government, to formulate proposals for cooperation between this State and the other States, and with the Federal Government, and to organize and maintain governmental machinery for such purposes."

The Commission's existence has been unknown to most of us largely because it has operated on a limited financial budget. In addition, it had a rather uncertain future until its constitutionality was definitely established. (*Parker v. Riley,* 18 Cal. (2d) 83). One of the most interesting characteristics of the Commission is the hybrid nature of its membership. It is composed of five members of the State Senate, five members of the State Assembly and five members appointed by the Governor from among various State officials. The legislative members of the Commission also operate as interim Committees on Interstate Cooperation in each branch of that body.

Because of its limited financial resources, a substantial part of which goes as an annual contribution to the Council of State Governments, the Commission has had to remain satisfied with a modest record of accomplishment which not only speaks well of its activities to date but illustrates fine opportunities for its future. The first formal meeting of the Commission took place on February 14, 1940, and was primarily an organizational meeting at which plans were laid for obtaining a court test on the question of its constitutionality. In addition, noting that the Commission was authorized under the act to establish committees and advisory boards, the following committees were created: Interstate Trade Barriers, Conservation, Transportation, Aeronautics, Relief, and Water Resources.

Shortly after the decision in *Parker v. Riley* had definitely established its constitutionality, another meeting was held on October 11, 1941, in connection with the Western Conference of the Council of State Governments in San Francisco on National Defense Problems. Failure of a quorum caused a postponement of any official action until the next formal meeting held on June 11, 1942. At this meeting many interstate problems were discussed including reciprocal relationships between states on truck fees, licenses, loads and weights, cooperation with the Commission on Uniform State Laws, and a suggested Pacific Coast Fisheries compact. A committee of three was selected to attend a Western Regional Conference on Emergency Fiscal Problems at Salt Lake City. Their report of this Salt Lake meeting was adopted by the next meeting of the Commission on July 27, 1942. This report included recommendations for the building up of a post-war reserve, maintenance of tax rates so as not to impair national, state and local economy, removal of trade barriers hindering the war effort, and cooperation in the national effort to control the cost of living.

One of the most fruitful meetings of the Commission was that held in Los

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Angeles on December 8, 1942, in conjunction with the Southwest Regional Conference of the Council of State Governments on War Legislation. At this meeting was developed a substantial part of the war legislative program that has been enacted at the recent session of the legislature including the Child Care Center Act, Notice to the Alien Property Custodian Act, War Powers Act, Post-war Reserve Act, Post-war Planning Act, War Housing Act, and Revised State Guard Act. With this sizeable list of accomplishments to its credit in spite of its limited budget, it was decided at its first meeting of 1943 in March, presided over by Governor Warren, an *ex officio* member, that its potentialities could be better exploited by additional funds. A modest appropriation bill was therefore introduced by Assemblyman Gardiner Johnson, a new Assembly member of the Commission, which was unanimously adopted by both the Assembly and the Senate and signed by the Governor.

With its sights raised by the securing of additional funds, the Commission, under the leadership of its new Chairman, Attorney General Kenny, has already taken steps toward justifying its true role. In addition to its committees which have already been referred to, there has been established a Post War Planning Committee. This new committee will be most useful since although the interstate aspect of manpower, especially as affected by migration, may not be currently significant, the three coastal states since 1940 have witnessed an unusual in-migration of war workers and others constituting a potential postwar relief problem of terrifying proportions. This portent is related inextricably with wartime industrial development in the west and with post-war conversion to peacetime economy. The parallelism of wartime expansion in the three coastal states, and the similarity of their impending problems after the war, promise a possible, and even a probable, serious conflict of interest. Each is likely to develop its own independent plan and program without regard to the identical problems in the neighboring states and in all likelihood, competitive in nature. The alternative is the establishment in advance of mutual plans which recognize the identity of these problems and provide for maximum benefit to all. Achievement of such a program is particularly hopeful in view of the potentials dispersed among the western states contained in such items as power, light metals, skilled population, plant capacity, and the probable expansion of Pacific and South American trade.

The recent Western Regional Conference of the Council of State Governments started the ball rolling by devoting its entire program to post-war problems. The Post-war Planning Committee of the Commission may be expected to carry on the ideas developed at that meeting by putting into effect sound constructive programs of mutual concern to all of the western states. The great advantage of the Commission over any other State agency, so far as this type of activity is concerned, is that it may operate outside the State of California and meet and confer with officials, public and private, of the other States. In this way it can act as a funnel through which all the various post-war plans developed by groups within California may be transmitted to the various western States so that post-war problems will not be looked upon as separate, independent, and competitive, but rather as an integrated program of the entire west. The former offers nothing but chaos, the latter an orderly, well planned, aggressive plan for post-war years. In the development of this plan, the California Commission on Interstate Cooperation will play a major role.

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has a material bearing on the extent of the discipline imposed. Also the age and experience of an attorney is given great consideration.

The attitude of the Supreme Court, toward those who are inexperienced, is clearly shown in the late case of *Bryant vs. State Bar,* 21 A. C. page 295. In this case, not only the Administrative Committee, but also the Board of Governors, found the petitioner had committed at least three acts deserving of discipline and recommended disbarment. The Supreme Court concurred with the findings but were of the opinion that a disbarment was too severe a penalty. It ordered eighteen months' suspension, which in the opinion of many amounts to a practical disbarment as there are very few attorneys who could weather such a condition.

Frequently complaints are the result of business dealings between an attorney and his client. These are hazardous and generally lead to misunderstandings and should be avoided. The acts of an attorney are necessarily viewed with suspicion. His position of trust causes a client to place not only the halo of superknowledge over the attorney, but the client feels himself (generally herself) to be dealing with one who would not, under any circumstances, recommend a shady deal or dangerous transaction, or one wherein the attorney would receive a secret benefit.

The State Bar assumes a heavy burden in carrying on its disciplinary work. These proceedings are for the protection of the profession, the individual attorney, and the general public. The public must feel that it can go to an attorney with perfect confidence, and that their trust placed in the attorney will be held inviolate. The State Bar will continue to do its part to create and uphold this confidence.

Until it is shown that a public reprimand is required or that a suspension or disbarment is recommended by the Board of Governors all records are kept strictly private and confidential. An attorney need feel no embarrassment in appearing before a Committee or the Board of Governors and he should give his fullest cooperation in all the proceedings. If guilty, his contrary attitude is very prejudicial; if innocent, such contrary attitude leads those hearing the matter to believe that he has something to hide.

Some attorneys feel that all such matters of discipline should be left to prosecution in the Courts. The Bar, as a whole, thinks otherwise. When you have seen the cases in which the matters between an attorney and his client have been straightened out, the protection given an attorney against uncalled for complaints, as well as the easy manner in which the public can gain ready access to relief against an erring attorney, you appreciate that the procedure now followed by The State Bar is as near perfection as one could possibly hope for.

The State Bar will consider all matters in which a question arises as to whether or not an attorney has acted properly, but will not act as a collection agency for disgruntled clients. Many come before the Committee to get revenge against an attorney for losing a case. Others think they only have to make an unfounded complaint and the attorney will waive his fees or a legitimate claim. These people are soon shown the error of their ways and told that such matters are for the civil courts. That matters involving moral turpitude, or dishonesty, or violation of the oath of an attorney will be given full and unbiased consideration. Any one presenting a groundless or baseless complaint will find that such matters will not stand the investigation of those delegated to handle such matters. These investigations are thorough and made by ex-

perienced personnel and unless a complaint has merit it will be disposed of, as it should be, in short order.

It is hoped that attorneys will take a more liberal view of this work; that they will give the cooperation which the successful handling of such proceedings requires. In so doing, they will readily see that, although such proceedings are distasteful to them, the ultimate purpose and accomplishment of such proceedings is their own protection as well as that of the public.

Attorneys should read the cases as they come down from the Supreme Court, and I would suggest particularly that on disciplinary proceedings they read the case of *McGrath vs. State Bar,* 21 A. C. 797, and each of the cases cited therein. They will then have a much broader picture of what attorneys should avoid as well as the discipline they can expect if they fail in their duties as attorneys.

The kindly cooperation of The State Bar Office and others, in the preparation of this article, is greatly appreciated.

"INDEPENDENCE FOREVER"

(Continued from page 235)

To the criticism in the English Parliament that the Declaration of Independence had no merit except that of captivating the people, the celebrated John Wilkes aptly replied that the people would have to decide the matter and, if they were captivated, the end had been attained. Its ringing phrases have ever deeply stirred the pulse beats of the nation and fired the imagination and aroused the emotions of all sincere and patriotic citizens. Its principles have been a vital part of the creed of every champion of liberty whom our country has produced in more than a century and a half. Speaking of it, in the same breath with the Golden Rule, old John Brown—whose body has lain these many years a-moldering in the grave—said, "Better that a whole generation of men, women and children should pass away by a violent death than one word or letter should be violated in this country." Thus has it inflamed the passionate martyrs of freedom! Abraham Lincoln once observed that the wellspring of his whole political philosophy was the Declaration of Independence. Thus has it inspired the wise and sober statesmen of democracy!

It was an unique circumstance and an extraordinary coincidence that both Thomas Jefferson and John Adams died on the fiftieth anniversary of the final act of the great drama in which they had played such immortal roles. A few days previously, to neighbors who asked him to suggest a toast for their banquet, Adams replied, "I will give you 'Independence Forever.'" That sentiment has echoed down the one hundred and seventeen years which have since elapsed and no better one can be suggested at this fateful hour of our history.

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